IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 8TH AUGUST 2007 / 17TH SRAVANA 1929

Crl.MC.No. 2523 of 2007()

AGAINST THE JUDGEMENT/ORDER IN CRRP.2485/2006 Dated 05/01/2007

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PETITIONER:

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1. HAMSA, S/O. MUHAMMED,
   MELADATH LAKSHAM VEEDU, PALERI AMSOM,
   MUTHUVANNACHA DESOM, THEKKEDATH KADAVU,
   KOYILANDY TALUK.

2. MUSTHAFA, S/O. HAMSA,
   MELADATH LAKSHAM VEEDU, PALERI AMSOM,
   MUTHUVANNACHA DESOM, THEKKEDATH KADAVU,
   KOYILANDY TALUK.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS:

STATE OF KERALA, THROUGH THE
SUB INSPECTOR OF POLICE, PERAMBRA POLICE STATION,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 08/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2523 of 2007

Dated this the 8th day of August 2007

O R D E R

The petitioners have been found guilty, convicted and sentenced in a prosecution under Section 324 read with 34 I.P.C. The verdict of guilty, conviction and sentence have now become final. Another Bench of this court in revision has modified the sentence into one of fine of Rs.5,000/- each. There was a further direction that the fine amount must be deposited in the court below positively within one month from the date of the order in revision. It was further observed that in case of failure, the trial court shall take steps to execute the sentence in default of payment of fine as against the petitioners.

2. The petitioners did not remit the amount within the period of one month. They are now willing to pay the amount but they apprehend that in view of the specific directions of this court in revision, the learned Magistrate might still send them to prison to undergo the default sentence for they have not paid the amount within the stipulated period of time.

3. The petitioners now face only a sentence of fine. The operative portion of the order in revision which I extract belowmust be read and understood reasonably.

> "In the result, I confirm the conviction of the petitioners by the courts below for offence under Section 324 I.P.C read with Section 34 thereof. All the same, the sentence is modified to one of fine of Rupees five thousand each. The fine amount shall be deposited in the court below positively within one month from today. In case of failure, the trial court shall take steps to implement the sentence in default of payment fine as against the petitioners"

4. It can only mean that this court has granted the petitioners time of one month for making the payment. Till then the sentence should not be executed. Even thereafter, if the fine amount is paid, there can be no question of any default sentence being imposed against the petitioners. The position has been made crystal clear in the decision in Girish v. Muthoot Capital Service (P) Ltd. [2007(1) KLT 16]. No further directions appear to be necessary.

5. This Criminal Miscellaneous Case is in these circumstances dismissed with the above observations.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007